

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

JULIA CASAS

VS.

ALLSTATE INSURANCE COMPANY

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CIVIL ACTION NO. 7:15-cv-00428

JURY DEMANDED

PLAINTIFFS' MOTION TO REMAND

Plaintiff files this motion to remand under 28 U.S.C. §1447(c).

A. Introduction

1. Plaintiff is Julia Casas; defendant is Allstate Insurance Company.

2. On September 4, 2015 plaintiff sued defendant in County Court at Law No. 5 of Hidalgo County, Texas to recover damages due and owing under policy of property insurance. Plaintiff's residence damages from a wind\hailstorm for which the defendant refused to pay a fair and just amount.

3. Defendant was served with citation and a copy of the original petition the suit on September 14, 2015.

4. Defendant filed its notice of removal on October 14, 2015.

B. Argument

5. The court must strictly construe the removal statutes in favor of remand and against removal. *Diaz v. Sheppard*, 85 F.3d 1502, 1505 (11th Cir. 1996); *Brown v. Francis*, 75 F.3d 860, 864-85 (3d Cir. 1996).

6. Under Texas Rule of Civil Procedure 47 Plaintiffs are required to make a statement under five categories. Plaintiffs selected the lowest category possible and plead that they were seeking “only monetary relief of \$100,000 or less, including damages of any kind, penalties, costs, expenses, prejudgment interest, and attorney fees.” To further clarify their claim for damages in this lawsuit Plaintiffs also plead that were not seeking damages in excess of \$74,999. **Exhibit 1** Plaintiff’s “Original Petition and Request for Disclosure”. In further support of their motion to remand Plaintiff submits a written stipulation that the amount in controversy is less than \$75,000 as set out in the Stipulation of Damages by the Plaintiffs. **Exhibit 2.** Plaintiffs stipulate they are not seeking, and will not accept an award of judgment in excess of \$74,999.99.

C. Conclusion

8. For these reasons, plaintiff asks the court to grant this motion, remand this suit to the state court where it was originally filed, and award plaintiff its court costs, expenses, and attorney fees.

Respectfully submitted,

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By: /s/ Krystal Elaine Garza
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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

The above and forgoing document has been served on all attorneys of record in accordance with the Texas Rules of Civil Procedure on this the 1ST DAY OF DECEMBER, 2015

Via Facsimile: (956) 386-1625

Mrs. Rosemary Conrad-Sandoval
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